

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JASON RAWLINS,

Petitioner,

v.

CASE NO. 12-CV-788
CRIM. NO. 2:08-CR-101
JUDGE GRAHAM
MAGISTRATE JUDGE KEMP

UNITED STATES OF AMERICA,

Respondent.

OPINION AND ORDER

Petitioner, a federal prisoner, has filed the instant motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. Petitioner asserts that he was sentenced in violation of the Fair Sentencing Act of August 3, 2010 ("FSA"). Petitioner was sentenced on August 19, 2010, to the mandatory minimum term of ten years imprisonment required prior to enactment of the FSA. The FSA lowered the mandatory minimum term of imprisonment applicable to petitioner's case to five years. Petitioner argues that because he was sentenced after the effective date of the FSA, the court was not required to impose a sentence of ten years, but rather should have taken into account the new five-year mandatory minimum term established by the FSA in imposing sentence. See *Dorsey v. United States*, - U.S. -, 132 S.Ct. 2321 (2012). Petitioner seeks a new sentencing hearing under the FSA. Respondent agrees that petitioner is entitled to the relief he seeks. See *Return of Writ*.

The motion to vacate, set aside or correct sentence hereby is granted. Petitioner's sentence is vacated. This case shall be

scheduled for a new sentencing hearing.

IT IS SO ORDERED.

Date: September 10, 2012

s/James L. Graham
James L. Graham
United States District Judge